

After reviewing the record, the Appeals Board finds the evidence supports claimant's allegations that he suffered personal injury by accident arising out of and in the course of his employment with respondent on September 29, 1992. The injury occurred when the claimant and a co-worker dropped a wooden pallet. The pallet struck claimant's calf and foot. The Appeals Board further finds that the resulting injury included the thrombophlebitis which subsequently developed.

Claimant testified that following the September 29, 1992 injury he experienced swelling in his foot for seven (7) to eight (8) days with pain in his calf and foot for three (3) to four (4) days following. On October 16, 1992, he noticed swelling in the calf which was later diagnosed as thrombophlebitis. Respondent argues that the thrombophlebitis was not caused by the injury at work. In support of his argument respondent points out that the initial injury appeared to be primarily to the foot. Respondent also relies in significant part upon the testimony of Dr. Ernest R. Schlachter who was appointed for an independent medical evaluation. Dr. Schlachter concluded from his examination that there are four (4) factors which predisposed the claimant to thrombophlebitis, including a history of thrombophlebitis, previous rupture of his Achilles tendon in 1989, morbid obesity and diabetes. The over two weeks between the initial trauma and the swelling in the calf lead Dr. Schlachter to conclude the two were not related. He concludes that there would be less than a five percent (5%) probability that there was a cause-and-effect relationship between the injury at work and claimant's current thrombophlebitis.

The Appeals Board finds more convincing the testimony of the treating doctors, Dr. Linus Ohaebosim and Dr. Suleman Sadiq. Dr. Ohaebosim examined the claimant on October 16, 1992. He testified that in his opinion the swelling brought about a clot to the superficial circulation which caused the claimant's leg to swell more and experience the tenderness which brought him to see the doctor. He described the clot as an aggregation of cells which take time to accumulate to be large enough to block off the blood supply. In his opinion the swelling was permanent. In answering questions raised by Dr. Schlachter's testimony, Dr. Ohaebosim indicated there may have been no noticeable swelling during the initial period, but he nevertheless believed the thrombophlebitis to be a result of the initial trauma.

Dr. Ohaebosim referred the claimant to Dr. Sadiq, a vascular surgeon. Dr. Sadiq first saw the claimant on October 17, 1992. He agreed that other factors may have contributed, but concluded that the September 29, 1992 injury aggravated claimant's condition by clotting off some of the collateral channels. The testimony of Dr. Sadiq and Dr. Ohaebosim was also supported by the opinion of Dr. Daniel Zimmerman. Dr. Zimmerman examined the claimant for purposes of rendering an expert opinion on claimant's behalf. He also expressed his opinion that the work injury caused the thrombosis.

It appears from the record that the treating physicians may not have initially had a full and complete history. Specifically, at the time they initially rendered their opinions as to causation, they were not aware that claimant did not denote swelling of his calf until approximately October 16. The absence of such swelling was a significant part or the basis of Dr. Schlachter's opinion. However, both of the treating doctors persisted in their conclusions when confronted with this history. Both gave plausible explanations relating to the delay in the development and absence of noticeable swelling for this initial period following the injury. In sum, the Appeals Board finds the opinion of the treating physicians to be the more credible in this case and, accordingly, concludes the thrombosis more probably than not resulted from the work-related injury.

Respondent also argues in the alternative that the Special Administrative Law Judge found an inappropriately high percentage of permanent impairment. On this issue the Appeals Board agrees with the finding of the Special Administrative Law Judge. Claimant suffers a sixty-five percent (65%) permanent partial impairment of function of the right lower extremity. This conclusion is based on a large part upon the opinion of Dr. Zimmerman, supported by Dr. Ohaebosim. They suggest that claimant suffers a class III impairment as described in the AMA Guides to the Evaluation of Permanent Impairment, Third Edition, (Revised), Table 52.

WHEREFORE, the Appeals Board finds that the Award of Special Administrative Law Judge William F. Morrissey should be, and the same hereby is, affirmed.

AWARD

WHEREFORE, AN AWARD OF COMPENSATION IS HEREBY MADE IN ACCORDANCE WITH THE ABOVE FINDINGS IN FAVOR of the claimant, Clarence A. Ford, and against the respondent, City of Wichita, a self-insurer, for an accidental injury which occurred on September 29, 1992 and based on an average weekly wage sufficient for maximum weekly benefits for the date of accident, for 17.43 weeks of temporary total disability compensation at the rate of \$299.00 per week in the sum of \$5,211.57 and 112.17 weeks of compensation at the rate of \$299.00 per week in the sum of \$33,538.83 for 65% permanent partial impairment of function of the right lower leg making a total award of \$38,750.40.

As of August 29, 1995, there is due and owing claimant \$5,211.57 in temporary total compensation and 112.17 weeks of permanent partial compensation at the rate of \$299.00 per week in the sum of \$33,538.83 making a total due and owing of \$38,750.40.

Continuing medical care for the routine maintenance of claimant's thrombosis such as routine office visits to the treating physician, prescriptions and support stockings will be provided without further application. Future medical care for more than routine maintenance care will be awarded only upon proper application to and approval of the director.

Unauthorized medical expense of up to \$350.00 is ordered paid to or on behalf of the claimant upon presentation of proof of such expense.

All compensation, medical expenses and costs are to be borne solely by the respondent and none by the Kansas Workers Compensation Fund.

Claimant's attorney fee contract is hereby approved insofar as it is not inconsistent with K.S.A. 44-536.

Fees necessary to defray the expenses of administration of the Workers Compensation Act are hereby assessed to the respondent to be paid direct as follows:

William F. Morrissey Special Administrative Law Judge	\$150.00
Deposition Services Transcript of Preliminary Hearing	\$125.20
Barber & Associates Transcript of Regular Hearing	\$280.95
Gene Donginoff & Associates Deposition of Daniel D. Zimmerman, M.D.	\$424.15
Satterfield Reporting Services Deposition of Suleman Sadiq, M.D.	\$219.20
Court Reporting Service Deposition of Linus Ohaebosim, D.O.	Unknown
Deposition of Ernest R. Schlachter, M.D.	Unknown
Deposition of Stephen T. Sparks, M.D.	\$272.90

IT IS SO ORDERED.

Dated this ____ day of August 1995.

BOARD MEMBER _____

BOARD MEMBER

BOARD MEMBER

c: Brian D. Pistotnik, Wichita, KS
David J. Morgan, Wichita, KS
William F. Morrissey, Special Administrative Law Judge
Philip S. Harness, Acting Director